

## The complaint

Mr M complains that St. James's Place Wealth Management Plc trading as St. James's Place ("SJP") has charged him ongoing advice charges ("OACs") despite not receiving annual reviews.

Mr M is being represented by a claims management company, however, for ease of reference, I shall refer to Mr M only throughout my decision.

## What happened

Mr M met with SJP in July 2013. Following this meeting, Mr M invested around £11,500 into an ISA.

Mr M complained to SJP in January 2024. In summary, he said he was paying OACs without receiving annual reviews or a level of service that justifies the fees he was paying.

For completeness, Mr M's complaint to SJP also included a complaint that the advice given had been unsuitable. But SJP didn't uphold this element of the complaint and Mr M has confirmed he doesn't want us to consider it.

SJP considered Mr M's complaint and offered to repay the OACs for the reviews due in 2019 and 2022 as they weren't carried out during these years. SJP declined to return the fees charged between 2014 and 2017, as it said that, in accordance with its complaint handling procedures, it had only reviewed its records back to January 2018 (six years before Mr M complained).

In its final response letter, SJP said:

*"In considering the complaint we have looked at the relevant factors, which include:*

- 1. The evidence we have that ongoing advice was provided to your client, for example documents produced as part of reviewing the suitability of the products recommended to them, and communications regarding the purpose and outcomes of the ongoing service provided. For example, as a minimum all our clients receive our Services Cost and Disclosure Document (SCDD) which sets out the nature of the ongoing service we will provide, the charges for the ongoing service, and how a client can exit the ongoing service.*
- 2. Alongside this evidence, we have also considered the regulatory requirements that applied to providing ongoing advice since they became a client in 2013. Prior to 2018 this included a requirement to regularly review the performance of products, and from 2018 also a specific requirement to provide an annual review of the suitability of certain products. Our client communications referred to above set out the nature of the ongoing service provided in line with the relevant regulatory requirements."*

Mr M didn't accept SJP's findings and so he referred his complaint to this service for an independent review. Mr M says he believed he would be able to utilise the services of the adviser as and when he required and believes he did so from time to time. But it was only when he recently spoke to a claims management company that he was made aware that he should have received a full review each year.

Following the referral to our service, SJP has provided further reasoning as to why it believes any complaint about OACs taken prior to January 2018 are time-barred. In summary it said:

- Mr M's ISA commenced on 5 August 2013 and the first annual review would have been due around 5 August 2014 (twelve months later).
- It's been more than six years since the review in 2014 was missed and in addition, it's more than three years since Mr M ought reasonably to have known he had cause to complain about the missed review as all of the point of sale documentation explained that he ought to expect reviews.
- It follows that any reviews missed between 2014 and 2017 are also too late for the same reasons.
- It confirmed that annual reviews took place on 7 June 2018 and on 12 May 2020.

I issued a provisional decision on the complaint in September 2024 and include a copy below:

### ***What I've provisionally decided – and why***

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Why I can't look into the complaint about the fees paid between 2013 and 2017*  
*Our service isn't free to consider every complaint that is brought to us. I can only consider complaints which satisfy the dispute resolution (DISP) rules in the regulator, the Financial Conduct Authority's (FCA) handbook. DISP 2.8.2 says:*

*"The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:*

*[...]*

*(2) more than:*

*(a) six years after the event complained of; or (if later)*

*(b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint.*

*unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received.*

*[...] unless:*

*(3) in the view of the Ombudsman the failure to comply with the time limit [...] was As a result of exceptional circumstances.*

*[...]*

*(5) the respondent has consented to the Ombudsman considering the complaint*

*where the time limits in DISP 2.8.2R or DISP 2.8.7R have expired”*

*The rules don't say that a complainant needs to know exactly what has gone wrong to bring a complaint – only that they need to have a reasonable awareness that something might have gone wrong.*

*If a complaint is brought outside of these time limits we'd only be able to consider the complaint if SJP has consented – which it hasn't – or if the complaint was brought late due to exceptional circumstances. The FCA gives an example of exceptional circumstances as incapacitation.*

*Each OAC is its own event, with the fees being charged in advance. So, the fees being charged from 2013 for the first year would be for the review in 2014 and so forth. There is no question that the events being complained about (not receiving ongoing advice being paid for in 2013 to 2017) happened more than six years before Mr M submitted his complaint to SJP. Therefore, I've considered when Mr M was aware or ought reasonably to have been aware of a cause for complaint.*

*The crux of this complaint is that Mr M didn't receive the service he expected having paid the OACs. So, I've considered what Mr M's expectations would have been around the service he was paying for to determine at what point a cause for complaint ought to have become apparent.*

*SJP says it doesn't think Mr M's complaint around the OACs taken between 2013 and 2017 was raised within three years of when he ought to have been aware of a cause for complaint, as he was told he would have regular reviews and he ought to have been aware he didn't receive these when the first review in 2014 was missed. SJP has referred to the initial documentation to support its stance.*

*SJP has provided copies of the point of sale documentation Mr M was provided with. These set out the following about the OACs.*

*The ISA Illustration said:*

***“How much will the advice cost?”***

- Our advice is not free. The cost of the initial advice and our services will be £518.40. This cost covers all of our expenses incurred in providing, checking and guaranteeing your advice. The remuneration of your Partner is only one element of this cost, from which they meet their own business expenses. We will also provide you with ongoing advice to review your investment and ensure it remains appropriate, as set out in the "Welcome to St. James's Place" brochure provided by your Partner. The fee for this is 0.5% of your investment each year. It is paid for by deduction from the value of your investment and so will increase as your investment grows. For example, if your investments are worth £11520.00 in a particular year, the cost for that year would be £57.60.*
- These amounts are paid out of the deductions shown and are included in the illustrations above. They depend on the size of the contribution, the term of the plan and the value of your fund.”*

*Having considered the document above, I think Mr M ought to have been aware he was paying OACs. However, I don't think the document was clear on how exactly the OACs would operate and I don't think that it set definitive expectations for the timing of reviews.*

However, SJP has also provided the suitability letter sent on 5 August 2013, in which the advisor set out the following:

“Reviews

*I strongly recommend that we conduct a review of your circumstances at regular intervals. I will write to you each year on the anniversary of your plan to provide you with an annual statement in respect of your investments so that we can arrange for a review.”*

*The suitability letter made it clear that reviews would be arranged on an annual basis when the annual statements were sent. It’s understandable that Mr M may not now recollect exactly what he was told, given the passage of time, but I’m satisfied it’s most likely that would have been his expectation at the time.*

*SJP has provided telephone records to show annual reviews took place on 7 June 2018 and 12 May 2020 and has explained that there are no contact notes available to show Mr M spoke with his adviser prior to this. It had been almost five years since he’d been told he’d receive annual reviews in return for annual fees by the time he had his first review in June 2018. And as there’s nothing that persuades me there was other communication during that time that could have appeared to be a review, I’m satisfied Mr M would have expected to have received three reviews prior to the June 2018 meeting.*

*I’m therefore satisfied Mr M knew enough by August 2014, when he hadn’t received an annual review, to know he hadn’t received what he’d been told he’d receive for the fees he’d paid. So, it follows that he knew – or ought to have known – of cause for complaint more than three years before he complained. In these circumstances, the complaint about the fees he’s paid between 2013 and 2017 has been raised too late for this service to consider. I’m able to consider a complaint if I’m satisfied the failure to comply with the time limits was because of exceptional circumstances. I haven’t been provided with any such circumstances and I’m not persuaded there are any that apply here.*

*I appreciate this will come as a disappointment to Mr M, but I’m only able to look at complaints where this service has jurisdiction.*

*Why I can look into the complaint about missed reviews from January 2018 onwards I’m able to consider any missed annual reviews which are within six years of Mr M raising his complaint to SJP. As such, I can consider any missed reviews that ought to have happened from January 2018 onwards.*

**SJP’s offer**

*SJP has offered to refund the OACs in relation to the missed annual reviews in 2019 and 2022 and have added simple interest at a rate of 8% per year to compensate Mr M. I am satisfied this is fair compensation, in the circumstances.*

*SJP additionally offered £150 to compensate for any distress or inconvenience that had been caused to Mr M. I’ve not been provided with any evidence that shows Mr M has suffered any distress or inconvenience that would persuade me to make a higher award. As such, for these years, SJP doesn’t need to do anything further.*

*From the evidence provided, I’m satisfied annual reviews took place in 2020 and 2021 and as Mr M received the service he’d been told he’d get in return for the 2019 and 2020 fees, it wouldn’t be fair or reasonable for me to tell SJP to refund these fees.*

## **Responses to my provisional decision**

Mr M accepted my provisional findings and SJP didn't provide a response by the deadline given.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As Mr M accepts my provisional findings and SJP hasn't provided any further comments for me to consider, I have no reason to change the findings given in my provisional decision.

## **Putting things right**

SJP should pay Mr M the offer it made in its final response letter if it hasn't done so.

## **My final decision**

My final decision is that the Financial Ombudsman Service can only consider Mr M's complaint about missed reviews from January 2018 onwards. And if hasn't already – St. James's Place Wealth Management Plc should pay the offer it made for the reviews missed in 2019 and 2022.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 October 2024.

Ben Waites  
**Ombudsman**